



California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman



Linda S. Adams
Agency Secretary

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Arnold Schwarzenegger
Governor

July 5, 2006

Mr. Ted Kuiper
Seahorse Ranch
P.O. Box 507
Bayside, CA 95524

Dear Mr. Kuiper:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Kuiper, Tidegate and Culvert Replacement Project

File: Kuiper – Tidegate and Culvert Replacement Project
WDID No. 1B06045WNHU

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341); in response to your request (applicant) for Water Quality Certification for the Kuiper Tidegate and Culvert Replacement Project located at Seahorse Ranch, 6200 Lanphere Road in Arcata, Humboldt County. On April 20, 2006, the Regional Water Board received your application and a \$500.00 processing fee. On June 8, 2006, we posted information describing the project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any public comments on this project.

Project Description: The existing 13-year-old tidegate and culvert has a use-life expectancy of 14 to 16 years. The replacement of the culvert and tidegate will prevent dike erosion and flooding preventing damage to county roads, a bridge and private property. The project is located at the north end of Seahorse Ranch, a low-lying agricultural land, in Arcata (APN 506-291-13), Humboldt County. The culvert and tidegate provides flood control for the area. The project involves the replacement of the existing 36-inch diameter by 40-foot long culvert with a tide gate at one end with another of the same size. The culvert drains the grassland to the south and a 3.5-acre brackish marsh that is part of the aquaculture wastewater facility at the Ranch. The project is estimated to take one day to complete during February but no later than March of 2007 or 2008. Activities will be conducted during one low tide.

An excavator will access the site over the dike crest; the culvert area will be armored with a temporary steel sheet pile cofferdam placed on the inside of the dike. The excavator will drive the steel sheeting into the mud for erosion prevention during the removal of the existing culvert and placement of the new culvert. Installation

California Environmental Protection Agency

of the new culvert will be in the exact location of the existing one. First, the existing culvert will be removed, and then the hole will be back filled. Approximately 40 cubic yards of existing fill material will be removed and re-used for the culvert placement. The existing culvert is located at +3.5 feet mid-tide range. The proposed activities will not exceed this depth in the intertidal zone. The existing culvert will be transported by excavator to a staging area and cut into 10-foot lengths for transport to a metal recycling location. Vegetation on the dike consists of dense blackberry vines, coyote brush and lupine, vegetation crushed by the excavator is expected to recover since the work will be performed during the dormant season.

Species in the area include migratory birds, redwing blackbirds, raptors, and garter snakes, to name a few. No anadromous salmonids exist in the project area. Eelgrass beds occur within the Mad River Slough, however no eelgrass has been observed on the inboard side of the dike. The project is not expected to impact eelgrass or any sensitive, threatened or endangered species. Biological consultants have determined that the replacement of the culvert is unlikely to impact any special status species since the work will be performed at low tide and during February. Potential impacts will be avoided and/or minimized due the timing and duration of the activities.

Receiving Waters:	Mad River Slough associated with Arcata Bay in the Eureka Plain Hydrologic Unit No. 110.00.
Filled or Excavated Area:	Area Temporarily Impacted: 0.03 acre Area Permanently Impacted: None Total Area Impacted: 0.03 acre
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit 3 for Maintenance (File No. 300820N)
Compensatory Mitigation:	None required for this project.
Noncompensatory Mitigation:	Noncompensatory mitigation measures include Best Management Practices (BMP) to prevent or minimize impacts to Waters of the United States from construction related erosion, stormwater runoff, or accidental spills associated with equipment, as described in Section 3 of the " <i>California Stormwater Best Management Practices Handbook</i> . Silt fencing will be installed along the perimeter of the temporary stockpile areas to prevent runoff from leaving the site. All cofferdams used for temporary access will be removed as soon as they are no longer needed. Any exposed soil will be covered with straw to prevent erosion during a rain event.

The project site supports a variety of migratory birds and raptors. Tidewater goby, a federally listed endangered species, have not been seen in the Mad River Slough during sampling efforts and the area is not hospitable habitat for the species due to swift currents, salinity, and inadequate substrate for burrowing. Listed anadromous fishes are not known to frequent the Mad River Slough. A qualified botanist survey for plant species of concern in the area proposed that the Humboldt Bay owl's clover and Point Reyes bird's beak are known to occur in the Mad River Slough but a survey found that the project site does not provide suitable habitat for any rare species. Eelgrass beds occur within the Mad River Slough but are not located in the project area. California Coastal Commission permit, pursuant to Title 14 of the California Code of Regulations, Section 13009, is pending.

CEQA Compliance:

The Regional Water Quality Control, as lead California Environmental Quality Act (CEQA) agency, has prepared a Notice of Exemption with the State Office of Planning and Research for this project. The CEQA Categorical Exemptions are for *Existing Facilities* Class 1, Section 15301.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify Regional Water Board staff at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.

- 2) A copy of this permit must be provided to all contractors and subcontractors conducting work on this project, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 3) Adequate Best Management Practices for sediment and turbidity control shall be implemented and in place during and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 5) No debris, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
- 6) The Applicant shall comply with the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activities and shall implement an adequate Storm Water Pollution Prevention Plan.
- 7) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States and shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality.
- 8) HAZWOPER certified scientist will be available to provide oversight during project activities
- 9) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 10) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 11) All activities and Best Management Practices will be conducted as described in this Permit and the application for this project.

- 12) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Kuiper Tidegate and Culvert Replacement Project (Facility No. 1B06045WNHU) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on July 5, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Diana Henrioulle of our staff at (707) 576-2350 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure:

State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502